



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

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San Francisco, CA 94105-3901

Certified Mail No. 7011 0470 0002 9197 7012  
Return Receipt Requested

September 12, 2012

Governor Gregory Mendoza  
Gila River Indian Community  
P.O. Box 97  
Sacaton, AZ 85247

**Re: Government-to-Government Tribal Consultation regarding the Proposed Florence Copper Project**

Dear Governor Mendoza:

I am responding to your letter dated July 26, 2012, regarding government-to-government consultation with the Gila River Indian Community on an Underground Injection Control permit application from Curis Resources (Arizona), Inc. (Curis Arizona) for the proposed Florence Copper Project. In response to your request and interests, we are extending the timeline for government-to-government consultation. Pursuant to the *EPA Policy on Consultation and Coordination with Indian Tribes* (Policy), the EPA wants to consult with the Gila River Indian Community during this extended timeframe to provide you with additional information and to receive input specific to your concerns.

Your July 2012 letter also requested a copy of the full Curis Arizona UIC permit application, and I understand that Curis Arizona has sent this information to the Community this week. Also, with this letter I am enclosing a description of the U.S. Environmental Protection Agency's UIC permitting process related to the proposed facility. This description includes information on how you can further participate and provide input on the permit decision-making process. Under the present consultation, EPA will consider the Community's input regarding the proposed activity prior to publishing a draft permit decision.

As part of the UIC permitting process, the EPA is required to conduct a National Historic Preservation Act (NHPA) Section 106 review process. A key element of this process is consultation with interested parties, including government-to-government consultation with interested tribes. To facilitate our NHPA 106 review, EPA requests information from the Community to assist in identifying any additional historic properties that have traditional religious and cultural importance to the Community (such as Traditional Cultural Properties and sacred sites) that may be located within the Curis Arizona property area. We request that you submit this information by September 30, 2012. Please refer to the previous map provided for the Curis Arizona property area. Based on the information that Curis Arizona has provided to EPA, the project only has potential effects within the Curis Arizona property area. However, we are also evaluating potential impacts outside the property area and will inform the Community of

any updates. "Historic properties" are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. This term also includes artifacts, records and remains that are related to and located within such properties. The Property Area has known archaeological sites that are eligible for inclusion in the National Register of Historical Places.

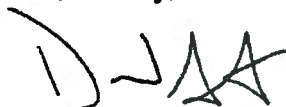
In our previous letter, the EPA stated that we will work with you to meet any concerns you may have regarding the sensitivity of information about historic properties that have cultural or religious significance. Additionally, the NHPA and its implementing regulations provide protection from public disclosure of information about a historic property that might result in harm to the property, a significant invasion of privacy, or impediments to traditional religious practices at a site.

To accommodate your request for a face-to-face meeting, staff project lead Nancy Rumrill and I would be available to meet with you or your designated representative(s) on September 25, 26 or 27, 2012, while we are in Arizona to conduct other activities. Please identify a point of contact by September 18<sup>th</sup> to Nancy at [rumrill.nancy@epa.gov](mailto:rumrill.nancy@epa.gov) so that we can coordinate the meeting. As you recommended, our staff project lead has contacted and discussed certain issues with Cathy Wilson from BIA. If you would like us to involve other parties, such as the Bureau of Indian Affairs (BIA), in the consultation meeting, we would be glad to invite their participation.

Please note that EPA will continue to coordinate with and receive input from the Community and other consulting parties until the NHPA 106 process is complete. We will listen to and consider your particular concerns and input, complete our technical review, public notice the proposed UIC permitting decision, consider all significant public comments, and then make a final decision. When we make a final decision, we will provide a written response to public comments and a written response describing how we considered the Community's input.

If you have any questions regarding the proposed project or the consultation process, please feel free to call me at (415) 972-3971, or contact Nancy Rumrill at (415) 972-3293. We look forward to continue working with you on this matter.

Sincerely,



David Albright  
Manager, Ground Water Office

Enclosure

Cc: Linus Everling, GRIC  
Barnaby V. Lewis, GRIC THPO  
Rudy Mix, Acting Director, GRIC DEQ  
James Garrison, SHPO, Arizona State Parks

### **Participation in the UIC Permitting Process**

In addition to the present opportunity for tribal consultation, tribes may also participate in the UIC permit public review and comment process, described below. This process is conducted in accordance with the provisions of 40 CFR Part 124.

### **Description of the UIC Permitting Process**

Curis Arizona's UIC application requests the modification and transfer of Underground Injection Control (UIC) Class III Permit No. AZ396000001 from Florence Copper Inc. to Curis Arizona, and describes the proposed facility as a small, pilot-scale Production Test Facility (PTF). Injection and recovery of In-Situ Copper Recovery solutions is proposed for up to 14 months, with an additional 10 months to be used for restoration of the injection and recovery zone and closure of surface facilities.

In the UIC permitting process, the EPA UIC program is evaluating the technical aspects of the application. This technical review will be in progress until we make a preliminary permit decision. During our technical review, we will request additional information, as needed, from Curis Arizona to complete our evaluation. The primary mission of the UIC program is protection of underground sources of drinking water (USDWs). The applicant's information must provide sufficient data to demonstrate that Underground Sources of Drinking Water (USDWs) will be protected. USDWs are defined in 40 CFR § 144.3 as, in relevant part, an aquifer or portion of an aquifer which contains fewer than 10,000 mg/l total dissolved solids unless it is exempted by the UIC provisions at 40 CFR §146.4.

Once we complete our review and evaluation, we will publish a notice of EPA's decision to issue or deny the UIC permit. EPA's notice will provide at least a 30-day period of public review, pursuant to 40 CFR §124 requirements. If we issue a draft permit, then anyone may request during the public comment period that EPA hold a public hearing to allow commenters a further opportunity to provide objections or information regarding the proposed permit. EPA is required to provide at least 30 days notice of any public hearing. Comments received during the comment period, including those provided at any public hearing, will be addressed in the final permit decision, pursuant to the regulations in 40 CFR §124.15 and 124.17.

For the current application, the permitting action would be a revocation of the existing Class III permit and reissuance of a new permit to transfer the authorization to operate to Curis Arizona and to impose appropriate conditions, including conditions prescribing hydraulic control, monitoring, and aquifer restoration to ensure adequate protection of USDWs. An EPA-issued Class III permit would prescribe conditions designed to prevent fluid movement from the solution mining wells into USDWs. See the existing UIC permit enclosed as an example.

